



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable D. Richard Voges
County Attorney
Wilson County
Floresville, Texas

Dear Sir:

Opinion No. 0-3677
Re: May the commissioners' court of a county of 17,066 population advance money to pay the deputies of a county tax assessor-collector.

That portion of your letter of January 22, requesting an opinion of this department, reads as follows:

"Wilson County has a population of 17,066;

"* * *.

"Please advise me whether or not the Commissioners' court of Wilson County may at their discretion, or is it mandatory, that they advance the necessary sums to the Assessor and Collector, if requested, for the purpose above stated."

Article 3937, Vernon's Annotated Civil Statutes, to which you refer in your letter, contains the following provision applicable to your question:

"* * *. The Commissioners Court shall allow the Assessor of taxes such sums of money to be paid monthly from the County Treasury as may be necessary to pay for clerical work, taking assessments and making out the tax rolls of the county, but such sums so allowed to be deducted from the amount allowed to the Assessor as compensation upon the completion of said Tax rolls, provided the amount allowed the Assessor

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by the Commissioners Court shall not exceed the compensation that may be due the county to him for assessing.

"* * *."

The foregoing provision was originally in the Article as appears from the 1925 Revised Statutes previous to the inclusion of the preceding proviso section now appearing, which latter section was inserted in the amendment of the Article by the 42nd Legislature, Regular Session, Acts 1931. Being carried forward in all amendments subsequent to the Acts of the 39th Legislature, Article 3937, Revised Civil Statutes, 1925, in substantially the same language, the provision above quoted is not limited in its application to only those counties mentioned in the proviso preceding.

In construing such provisos, Sutherland on Statutory Construction, Section 223, p. 296, states:

"If it be a proviso to a particular section, it does not apply to others unless plainly intended. It should be construed with reference to the immediately preceding parts of the clause to which it is attached. In other words, the proviso will be so restricted in the absence of anything in its terms, or the subject it deals with, evincing an intention to give it a broader effect."

It is noted that as to such sums as may be necessary to pay for clerical work, taking assessments and making out the tax rolls of the county, the statute requires the commissioners' court to allow same monthly, further providing that such amount as allowed is to be deducted from the amount of compensation allowed the assessor for assessing the property and not to exceed such amount. The making of such advancements as may be necessary, a fact to be determined by the commissioners' court upon proper and timely application by the tax assessor, may, under such findings, be said to be mandatory.

Your are advised, therefore, that in the opinion of this department it is the duty of the commissioners' court to make advancement of such monthly sums to the tax assessor-collector as

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are determined by the court to be necessary to pay for clerical work, taking assessments and making out the tax rolls of the county as provided in Article 3937, Vernon's Annotated Civil Statutes, which includes the salaries of those deputies assigned to such duties.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Wm. J. R. King
Wm. J. R. King
Assistant

VJRK:RS

APPROVED FEB 12, 1941

Gerardo Mann
ATTORNEY GENERAL OF TEXAS

